IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 981 OF 2003

IN

SUMMARY SUIT NO. 4363 OF 2000

Mr.Puneet Kumar .. Plaintiff

versus

Shailesh S. Bhobe & Anr. .. Defendants

...

None for the plaintiff.

Mr.Ashish Kamat for the defendant

CORAM : D.G. KARNIK,J.

DATED : 14th January 2005.

P.C.:

1. This motion is taken out by the defendant for setting aside of ex-parte decree passed against him on 9.9.2002 in Summary Suit no.4363 of 2000.

2. In paragraph no.4 of the motion, it is stated that the vessel of the defendant met with an accident

in July 2000 and therefore, he was required to return the vessel to ONGC on or before 6th December 2000. It is further states that therefore, the defendant was very busy in the official work and therefore, was unable to contact the Advocate and file affidavit in reply. It is to be noted that the affidavit in reply was not filed for a period of more than two years after the alleged accident to the vessel. The defendant kept quiet till 9th September 2002. No reasons have been assigned as to why the affidavit could not be sworn between December 2000 and September 2002. Even on the date fixed for ex-parte hearing, the defendant and his Advocate were absent. No reasons have been mentioned why they could not remain present on the date fixed for hearing and then praying for condonation of the delay and delay in filing affidavit in reply.

3. The conduct shows gross negligence on the part of the applicant defendant. There is no sufficient cause for setting aside the ex-parte decree. Hence, motion is dismissed.

D.G. KARNIK, J